

HOUSE BILL NO. 365

INTRODUCED BY G. GOLIE

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PUBLIC OFFICER OR PUBLIC EMPLOYEE FROM USING THE PUBLIC OFFICER'S OR PUBLIC EMPLOYEE'S PUBLIC POSITION, PUBLIC OFFICE, PUBLIC JOB TITLE, OR UNIFORM WHEN ENDORSING A POLITICAL CANDIDATE OR EXPRESSING PERSONAL POLITICAL VIEWS; AND AMENDING SECTION 2-2-121, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for public officers and public employees. (1) Proof of commission of any act enumerated in subsection (2) is proof that the actor has breached a public duty.

(2) A public officer or a public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds for the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor and department director.

(3) ~~(a)~~ A public officer or public employee may not:

(a) use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition

1 to any political committee, the nomination or election of any person to public office, or the passage of a ballot
2 issue unless the use is:

3 (i) authorized by law; or

4 (ii) properly incidental to another activity required or authorized by law, such as the function of an elected
5 public officer, the officer's staff, or the legislative staff in the normal course of duties; or

6 (b) use the public officer's or public employee's public position, public office, public job title, or uniform
7 when endorsing a political candidate or expressing personal political views.

8 ~~(b)~~(c) As used in this subsection (3), "properly incidental to another activity required or authorized by
9 law" does not include any activities related to solicitation of support for or opposition to the nomination or election
10 of a person to public office or political committees organized to support or oppose a candidate or candidates for
11 public office. With respect to ballot issues, properly incidental activities are restricted to the activities of a public
12 officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a
13 ballot issue on state or local government operations.

14 ~~(e)~~(d) This subsection (3) is not intended to restrict the right of a public officer or public employee to
15 express personal political views.

16 (4) A public officer or public employee may not participate in a proceeding when an organization of
17 which the public officer or public employee is an officer or director is:

18 (a) involved in a proceeding before the employing agency that is within the scope of the public officer's
19 or public employee's job duties; or

20 (b) attempting to influence a local, state, or federal proceeding in which the public officer or public
21 employee represents the state or local government.

22 (5) A public officer or public employee may not engage in any activity, including lobbying, as defined
23 in 5-7-102, on behalf of an organization of which the public officer or public employee is a member while
24 performing the public officer's or public employee's job duties. The provisions of this subsection do not prohibit
25 a public officer or public employee from performing charitable fundraising activities if approved by the public
26 officer's or public employee's supervisor or authorized by law.

27 (6) A department head or a member of a quasi-judicial or rulemaking board may perform an official act
28 notwithstanding the provisions of subsection (2)(e) if participation is necessary to the administration of a statute
29 and if the person complies with the disclosure procedures under 2-2-131.

30 (7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless

1 the member is also a full-time public employee.

2 (8) Subsections (2)(b) and (2)(e) do not prevent a member of the governing body of a local government
3 from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise
4 enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to
5 performing the official act."

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